

REQUEST FOR COUNCIL ACTION

MEETING
DATE: 04-21-03

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AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. E-9
ITEM DESCRIPTION: Vacation Petition #02-15 by David T. Bishop & Beatrice T. Bishop Trust, to vacate Public Right-of-Way. The applicant is requesting to vacate the public road right-of-way located adjacent to a part of Lots 10 & 11 and all of Lots 12, 13 & 14, Block 31, Northern Addition. The public roadway is located south of 7 th Street NE and north of 6 th Street NE along 2 nd Avenue NE.		PREPARED BY: Theresa Fogarty, Planner

April 14, 2003

Note: The applicant has submitted a revised survey. The survey has been reviewed and accepted by staff. Therefore, staff is recommending adding text to Condition #1 deleting Conditions #2 and #4 and adding a Condition. Text to be deleted will be shown as ~~stikeout text~~ and text to be added will be shown as underlined text.

Planning Department Recommendation:

See attached staff report dated December 5, 2002.

Staff recommends approval of the vacation petition as submitted with the following recommendations:

- 1. Vacating only the westerly ½ of the right-of-way located between 6th Street NE and 7th Street NE, as described on the attached survey, dated February 6, 2003.**
- ~~2. The applicant work with Rochester Public Works Department for the construction of a cul-de-sac at the resulting dead-end of 6th Street NE.~~**
- 3. Prior to recording the vacation, a minimum 20' utility easement shall be dedicated for the existing 12' public water main within the area of this vacation.**
- ~~4. The vacation of the right-of-way shall not be recorded until an access and maintenance agreement is executed between the City of Rochester and Bishop Properties.~~**
- 5. The Owner shall execute a Development Agreement with the City for the property for any additional development on the site.**

The Planning & Zoning Commission reviewed this vacation request at the December 11, 2002 meeting. The Commission recommended approval of the vacation petition.

Ms. Petersson moved to recommend approval of Vacation Petition #02-015, by David T. Bishop Trust & Beatrice T. Bishop Trust with staff's recommendations and conditions. Mr. Haeussinger seconded the motion. The motion carried 8-0.

COUNCIL ACTION: Motion by: _____ Second by: _____ to: _____

Council Action Needed:

1. Following the hearing, if the Council wishes to proceed, it should instruct the City Attorney to prepare a resolution to approve a portion of the vacation petition as recommended by the City Planning and Zoning Commission.

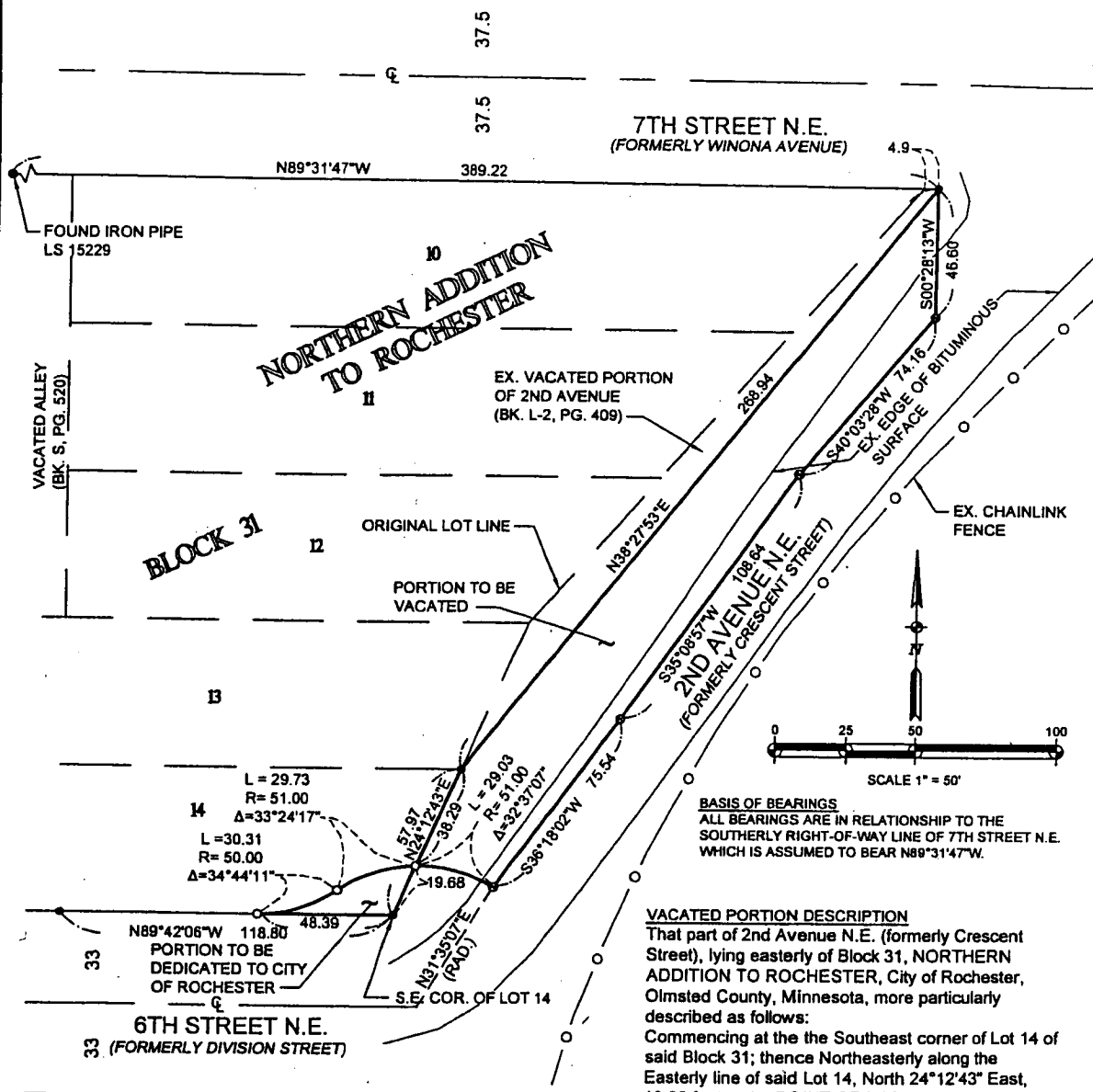
Attachments:

1. Staff Report dated December 5, 2002.
2. Minutes of the CP&ZC December 11, 2002 meeting.
3. Certificate of Survey, dated February 6, 2003.
4. Letter from City Public Works Department, dated February 10, 2003

Distribution:

1. City Administrator
2. City Clerk
3. City Attorney: Copy of legal description is attached
4. Planning Department File
5. Applicants: This item will be considered by the Council sometime after 7:00 p.m. on Monday, April 21, 2003, in the Council/Board Chambers at the Government Center, 151 4th Street SE, Rochester, MN.
6. Kane and Johnson Architects, Inc.

CERTIFICATE OF SURVEY



DEDICATED PORTION DESCRIPTION

That part of Lot 14 of Block 31, NORTHERN ADDITION TO ROCHESTER, City of Rochester, Olmsted County, Minnesota, more particularly described as follows:

BEGINNING at the the Southeast corner of Lot 14 of said Block 31; thence Westerly along the Southerly line of said Lot 14, North 89°42'06" West, 48.39 feet to a point of cusp with a curve concave to the Northwest having a radius of 50.00 feet; thence Northeasterly 30.31 feet along said curve through a central angle of 34°44'11" to the beginning of a reverse curve concave to the Southeast having a radius of 51.00 feet; thence Northeasterly 29.73 feet along said curve through a central angle of 33°24'17" to the East line of said Lot 14; thence Southwesterly along the East line of said Lot 14, South 24°12'43" West, 19.68 feet to the POINT OF BEGINNING, containing 427 square feet, more or less, and subject to existing easements and restrictions of record.

VACATED PORTION DESCRIPTION

That part of 2nd Avenue N.E. (formerly Crescent Street), lying easterly of Block 31, NORTHERN ADDITION TO ROCHESTER, City of Rochester, Olmsted County, Minnesota, more particularly described as follows:

Commencing at the the Southeast corner of Lot 14 of said Block 31; thence Northeasterly along the Easterly line of said Lot 14, North 24°12'43" East, 19.68 feet to the POINT OF BEGINNING; thence continuing along said Easterly line North 24°12'43" East, 38.29 feet to the Northeast corner of said lot 14; thence North 38°27'53" East, 268.94 feet along the Southeastery line of that portion of vacated 2nd Avenue as described in Book L-2, at Page 409, Olmsted County Records to the most Northeasterly corner of said vacated portion; thence South 00°28'13" West, 46.60 feet; thence South 00°03'28" West, 74.16 feet; thence South 35°08'57" West, 108.64 feet; thence South 36°18'02" West, 75.54 feet to the beginning of a non-tangent curve concave to the Southwest having a radius of 51.00 feet and to which beginning a radial line bears North 31°35'07" East; thence Northwesterly 29.03 feet along said curve through a central angle of 32°37'07" to the POINT OF BEGINNING, containing 8,437 square feet, more or less, and subject to existing easements and restrictions of record.

LEGEND

- SET 5/8" REBAR WCAP
PLS 40317
- SET MAG NAIL
- FOUND 3/4" PIPE WITH CAP RLS
11622 UNLESS OTHERWISE
DESCRIBED

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT
WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION
AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER
THE LAWS OF THE STATE OF MINNESOTA.

KIRK L. PAPE, P. L. S. 40317

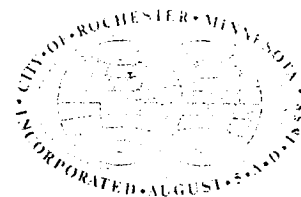
DATE 2/6/03

CLIENT
DAVE BISHOP



ROCHESTER

Minnesota



DEPARTMENT OF PUBLIC WORKS

201 4th Street SE, Room 108

Rochester, MN 55904-3740

(507) 287-7800

FAX (507) 281-6216

February 10, 2003

David Bishop
1185 Plummer Circle SW
Rochester, MN 55902

Mitzi Baker, Senior Planner
Rochester/Olmsted County Planning Department
2122 Campus Dr. SE
Rochester, MN 55904

Re: Vacation of 2nd Avenue NE

Dear Mr. Bishop and Mrs. Baker:

The Public Works Department has reviewed the survey for the proposed vacation of 2nd Avenue NE, including the description for the portion to be dedicated by owner. We find the proposed 2nd Avenue NE vacation and dedication acceptable for processing.

The owner and City will have other issues to work out related to development on the site. As such the City would request, as a condition of the vacation, the owner be required to execute a development agreement for the property for any additional development on the site.

I may be reached at 281-6198 with any questions or concerns you may have.

Yours very truly,

Michael J. Nigbur
Land Development Manager

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**VACATION OF RIGHT-OF-WAY
FILE #02-15**

**DAVID T. BISHOP TRUST &
BEATRICE H. BISHOP TRUST**

8 ST NE

1 AVE NE

7 ST NE

N BROADWAY

BISHOP
PROPERTY

6 ST NE

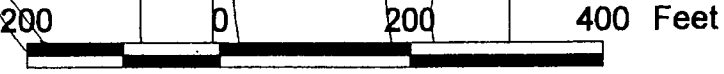
23,315 Sq.Ft. ROW
of 2nd Ave NE
Petitioned to be Vacated

SILVER LAKE
POWER PLANT

W SILVER LAKE DR NE

1 AVE NE

4 ST NE



5

ELM

FREMONT

POPLAR

WINONA

DIVISION

ST

ST.

ST

AV

57.

BROADWAY

WABASH

RESIDENT

WATER

2502

Quartov Line No 1

Waived
6-17-1997

ROW VACATION

vacated
Served in
12-8-57
C. H. E.

Blud²

SFP 18 2002

ROCHESTER OLMSTED
PLANNING DEPARTMENT



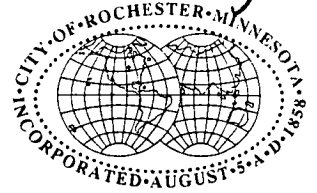
ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF

Olmsted

www.olmstedcounty.com/planning



TO: City Planning and Zoning Commission

FROM: Theresa Fogarty, Planner

DATE: December 5, 2002

RE: Vacation Petition #02-15 by David T. Bishop & Beatrice T. Bishop Trust, to vacate Public Right-of-Way. The applicant is requesting to vacate the public road right-of-way located adjacent to a part of Lots 10 and 11 and all of Lot 12, 13 and 14, Block 31, Northern Addition. The public roadway is located south of 7th Street NE and north of 6th Street NE along 2nd Avenue NE.

Planning Department Review:

Petitioner(s): David and Beatrice Bishop
1185 Plummer Circle SW
Rochester, MN 55902

Architect / Engineer: Kane and Johnson Architects, Inc.
2460 Highway 63 North, Suite 100
Rochester, MN 55906

Reason to Vacate: The applicant plans to add a three story building for offices to complete the existing Seventh Street Business Center. The proposed building requires additional parking spaces in addition to what is available on the existing site.

Referral Comments:

1. Rochester Public Utilities – Water Division
2. Rochester Fire Department
3. MN Department of Transportation
4. Rochester Public Works Department
5. Rochester Public Utilities – Environment & Facilities
6. Olmsted County Environmental Services

Report Attachments:

1. Vacation Petition
2. Location Map
3. Referral Comments (7 Letters)

Staff Recommendation:

Rochester Public Works Department approves of vacating the westerly ½ of the right-of-way, but does not support the vacation of the easterly ½ right-of-way.



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Vacation #02-15
Bishop Property
12/05/02

Rochester Public Utilities – Water Division requests a minimum 20' utility easement for the existing 12' public water main within the area of the vacation request. In addition, Rochester Public Utilities – Environmental & Facilities Division primary concern is ingress / egress for trucks hauling ash, as well as RPU operations & maintenance vehicles coming to and going to the plant. In order to secure adequate land for a driveway and providing additional space for a tree / shrub buffer they would be looking at using the east half of the proposed vacated right-of-way. RPU is not opposed to this vacation request as long as the access can be provided.

The Rochester Fire Department requests the construction of a cul-de-sac for emergency vehicle turn-around on the resulting dead end of 6th Street NW. This right-of-way provides partial emergency vehicle access to the Rochester Public Utilities site and to the buildings located on the Bishop property and vacating this right-of-way may limit the Fire Department's ability to provide services on these sites. Continued emergency vehicle access to these properties must be addressed in the design and development of the Bishop property.

Staff has reviewed the recommendations presented by the Rochester Fire Department, Rochester Public Utilities and Rochester Public Works and would recommend approval with the following recommendations:

- 1. Vacating only the westerly ½ of the right-of-way located between 6th Street NW and 7th Street NW.**
- 2. The applicant work with Rochester Public Works Department for the construction of a cul-de-sac at the resulting dead-end of 6th Street NW.**
- 3. Prior to recording the vacation, a minimum 20' utility easement shall be dedicated for the existing 12' public water main within the area of this vacation.**



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September 27, 2002

Rochester-Olmsted
CONSOLIDATED PLANNING DEPARTMENT
2122 Campus Drive SE
Rochester, MN 55904-7996

REFERENCE: Vacation Petition #02-15 by David T. Bishop Trust & Beatrice T. Bishop Trust to vacate the public road Right-of-Way located adjacent to a part of Lots 10 and 11 and all of Lots 12, 13 and 14, Block 31 Northern Addition located between 6th and 7th Streets, just west of the Silver Lake Plant site.

Dear Ms. Garness:

Our review of the referenced petition is complete and our comments follow:

1. A 20' minimum public utility easement is required for the existing 12" public water main within the area of vacation.

Please contact us at 507-280-1600 if you have any questions.

Very truly yours,

Donn Richardson
Water

C: Doug Rovang, RPU
Mike Engle, RPU
Mark Baker, City Public Works
Vance Swisher, Fire Prevention Bureau
David & Beatrice Bishop
Kane and Johnson Architects, Inc.

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The hand to reach for...
DAVID A. KAPLER
Fire Chief

DATE: October 11, 2002
TO: Jennifer Garness, Planning
FROM: Lyle Felsch, Deputy Chief
SUBJECT: Vacation Petition #02-15 by David Bishop to vacate the Public Right-of-Way located along 2nd Avenue NE, south of 7th Street NE and north of 6th Street NE .

With regard to the above noted project plan, the fire department has the following comments:

1. This Right-of-Way provides partial emergency vehicle access to the Rochester Public Utilities site and to the buildings located on the Bishop property and may limit the Fire Department's ability to fight a fire on these sites. Continued emergency vehicle access to these properties must be addressed in the design and development of the Bishop property.
 2. The closure of this access would require the construction of a cul-de-sac for emergency vehicle turn-around on the resulting dead end of 6th Street.
- c: Donn Richardson, RPU, Water Division
David and Beatrice Bishop, 1185 Plummers Circle SW, Rochester, MN 55902
Kane and Johnson Architects, Inc. 2460 Hwy 63 N, Suite 100, Rochester, MN 55906

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Garness Jennifer

From: Debra Persoon [Debbie.Persoon@dot.state.mn.us]
Sent: Tuesday, September 24, 2002 11:43 AM
To: garness.jennifer@CO.OLMSTED.MN.US
Cc: Dale Maul; Fred Sandal
Subject: No Significant Impacts

These proposals will have no significant impacts on Mn/DOT roadways:

- Variance Request #02-04 by Allen and Christine Heitman to allow for the construction of a 26' x 36' detached garage.
- Vacation Petition #02-15 by David T. Bishop Trust & Beatrice T. Bishop Trust to vacate a public right-of-way.

Thanks - Debbie

Debbie Persoon-Bement, Plan and Plat Coordinator
Minnesota Department of Transportation
2900 48th Street NW
Rochester, MN 55901-5848
Phone: (507) 281-7777
Fax: 507-285-7355
E-Mail: debbie.persoon@dot.state.mn.us

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ROCHESTER

— Minnesota —

TO: Consolidated Planning Department
2122 Campus Drive SE
Rochester, MN 55904

DEPARTMENT OF PUBLIC
WORKS
201 4th Street SE Room 108
Rochester, MN 55904-3740
507-287-7800
FAX – 507-281-6216

FROM: Mark E. Baker

DATE: 10/11/02

The Department of Public Works has reviewed the requested application for a petition for Vacation #02-15 by David & Beatrice Bishop. The following are Public Works comments on the proposal:

1. Public Works has no objection to vacating the westerly ½ of the ROW, but does not support the vacation of the easterly ½ of the ROW.

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Fogarty Theresa

From: Joe Hensel [jhensel@rpu.org]
Sent: Friday, October 18, 2002 10:39 AM
To: 'Nigbur, Mike'; Fogarty, Theresa
Cc: Larry Koshire; Walt Lorber; Walter Schlink
Subject: RE: Bishop ROW Vacation #02-15

Mike and Theresa,

RPU is concerned about adequate access to the SLP. As you are aware we have a lot of trucks hauling coal and ash, as well as RPU operations & maintenance vehicles coming to and going from the plant. We also have a new water treatment building planned for the southeast corner of the intersection of 6th St. and 2nd Ave. We need convenient ingress and egress to that building. Other than this vacation request we have not reviewed any plans for streets in the vicinity of the SLP. Some streets have been vacated for past Marigold expansions. Rumor has it that Marigold will request more street vacations. A plan would be most helpful.

In order to secure adequate land for a driveway and provide additional space for tree/shrub buffer we would be looking at using the east half of the vacated right-of-way. If 2nd Ave. were to be vacated northwest of the SLP coal pile would we be able to move our security fence from its current alignment to the street centerline?

We want to be a good neighbor. Ingress/egress is our primary concern. As long as access can be provided we are not opposed to this vacation of public right-of-way.

Joe Hensel

Joseph S. Hensel, Manager
Environment & Facilities
Rochester Public Utilities
Phone: 507.280.1556
E-mail: jhensel@rpu.org

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MINUTES OF THE
CITY OF ROCHESTER PLANNING COMMISSION
2122 CAMPUS DRIVE SE – SUITE 100
ROCHESTER MN 55904

Minutes of the regularly scheduled meeting of the City Planning and Zoning Commission held on Wednesday, December 11, 2002, at 7:00 p.m. in the Council/Board Chambers of the Government Center, 151 4th Street SE, Rochester, MN.

Members Present: Mr. Randy Staver, Chair; Ms. Lisa Wiesner, Vice Chair; Ms. Mary Petersson; Ms. Leslie Rivas; Mr. Michael Quinn; Mr. James Burke; Mr. Robert Haeussinger; and Mr. Paul Ohly

Members Absent: Mr. John Hodgson

Staff Present: Mr. Brent Svenby; Mr. John Harford; and Ms. Jennifer Garness

Other City Staff Present: Ms. Pat Alfredson, City Attorney

ADMINISTRATIVE BUSINESS:

Ms. Petersson made a motion to approve the minutes of December 11, 2002, as written. Ms. Wiesner seconded the motion. The minutes from December 11, 2002 were approved unanimously.

Mr. Staver noted that General Development Plan #194, Zoning District Amendment #02-14, Land Use Plan Amendment #02-06, Zoning District Amendment #02-15, and General Development Plan #195 have all been requested to be tabled. Therefore, no testimony would be heard.

Mr. Haeussinger made a motion to approve the agenda, as written. Ms. Petersson seconded the motion. The motion carried unanimously.

ANNEXATION:

Annexation Petition #02-24 by Bamber Valley Development, LLC to annex approximately 59.13 acres of land. The property is in part of the East ½ of Section 8, Rochester Township. The property is located along the north side of Salem Road SW (CR 25) and along the east side of Westhill Drive SW.

Mr. Brent Svenby presented the staff report, dated December 4, 2002, to the Commission. The staff report is on file at the Rochester-Corsted Planning Department.

Ms. Wiesner moved to recommend approval of Annexation Petition #02-24 by Bamber Valley Development, LLC. Mr. Burke seconded the motion. The motion carried 8-0.

RIGHT-OF-WAY VACATION:

* Vacation Petition #02-15, by David T. Bishop Trust & Beatrice T. Bishop Trust, to vacate Public Right-of-Way. The applicant is requesting to vacate the public road right-of-way located adjacent to a part of Lots 10 and 11 and all of Lots 12, 13 and 14 of Block 31,

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Northern Addition. The public roadway is located south of 7th Street NE and north of 6th Street NE along 2nd Avenue NE.

Mr. Brent Svenby presented the staff report, dated December 5, 2002, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Mr. Svenby explained that the item was before the Commission approximately one month ago. However, the applicant needed additional time to work out issues with the Fire Department and Public Works Department. At this time, agreements have been made.

Mr. Svenby stated that he received an email from Mike Nigbur today. He asked that a fourth condition be placed upon approval stating "The vacation of the right-of-way shall not be recorded until an access and maintenance agreement is executed between the City of Rochester and Bishop Properties." He indicated that he spoke with the applicant with regard to the additional condition, and they were agreeable to the additional condition.

Ms. Petersson moved to recommend approval of Vacation Petition #02-15, by David T. Bishop Trust & Beatrice T. Bishop Trust with staff's recommendation and conditions. Mr. Haeussinger seconded the motion. The motion carried 8-0.

CONDITIONS:

- 1. Vacating only the westerly ½ of the right-of-way located between 6th Street NW and 7th Street NW.**
- 2. The applicant work with Rochester Public Works Department for the construction of a cul-de-sac at the resulting dead-end of 6th Street NW.**
- 3. Prior to recording the vacation, a minimum 20' utility easement shall be dedicated for the existing 12' public water main within the area of this vacation.**
- 4. The vacation of the right-of-way shall not be recorded until an access and maintenance agreement is executed between the City of Rochester and Bishop Properties.**

TYPE II CONDITIONAL USE PERMIT:

Type II Conditional Use Permit #02-57, by Ronald Ruehmann. The applicant is requesting approval of a Home Occupation Permit to operate a barber shop, with two barbers/hair stylists, one would not reside at the dwelling. The property is located at 1237 2nd Street NE.

Mr. Brent Svenby presented the staff report, dated December 4, 2002, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Mr. Svenby pointed out that the application indicated that the business would not be operating on weekends.

Mr. Haeussinger asked if the hours of operation would be listed in the findings of the resolution.

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